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## **DEPARTMENT OF COMMERCE**

### **Bureau of Industry and Security**

#### **15 CFR Part 744**

**[Docket No. 121009527-2527-01]**

**RIN 0694-AF80**

#### **Addition of Certain Persons to the Entity List**

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Final rule.

**SUMMARY:** This rule amends the Export Administration Regulations (EAR) by adding two persons to the Entity List and revising one existing entry. The persons who are added to the Entity List have been determined by the U.S. Government to be acting contrary to the national security or foreign policy interests of the United States. These persons will be listed on the Entity List under one destination. The two entries added to the Entity List consist of two entries in Pakistan. This rule is also revising one existing

entry in the U.A.E. to clarify the scope of the entry by providing an additional alias and alternate address for this listed person.

The Entity List notifies the public that certain exports, reexports, and transfers (in-country) of items subject to the EAR to entities identified on the Entity List require licenses from the Bureau of Industry and Security (BIS) and that in most instances license exceptions are unavailable for such transactions. BIS usually applies a license review policy of denial because it considers such entities to present significant risks of diversion to weapons of mass destruction (WMD) programs, terrorism, or other activities that are contrary to U.S. national security or foreign policy interests. By publicly listing such entities, BIS seeks to assist legitimate exporters, reexporters and transferors, and other parties participating in transactions that are subject to the EAR by providing them with information to detect and avoid high risk transactions with those entities, which in most cases means any transaction that involves items that are subject to the EAR.

**DATES:** *Effective Date:* This rule is effective [INSERT DATE OF PUBLICATION IN FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:**

Karen Nies-Vogel, Chair, End-User Review Committee, Office of the Assistant Secretary, Export Administration, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482-5991, Fax: (202) 482-3911, E-mail: [ERC@bis.doc.gov](mailto:ERC@bis.doc.gov).

## **SUPPLEMENTARY INFORMATION:**

### **Background**

The Entity List (Supplement No. 4 to Part 744) notifies the public about entities that have engaged in activities that could result in an increased risk of the diversion of exported, reexported or transferred (in-country) items to weapons of mass destruction (WMD) programs. Since its initial publication, grounds for inclusion on the Entity List have expanded to include activities sanctioned by the State Department and activities contrary to U.S. national security or foreign policy interests, including terrorism and export control violations involving abuse of human rights. Certain exports, reexports, and transfers (in-country) to entities identified on the Entity List require licenses from BIS and are usually subject to a policy of denial. The availability of license exceptions in such transactions is very limited. The license review policy for each entity is identified in the license review policy column on the Entity List and the availability of license exceptions is noted in the Federal Register notices adding persons to the Entity List. BIS places entities on the Entity List based on certain sections of part 744 (Control Policy: End-User and End-Use Based) of the EAR.

The End-user Review Committee (ERC), composed of representatives of the Departments of Commerce (Chair), State, Defense, Energy and, where appropriate, the Treasury, makes all decisions regarding additions to, removals from, or other modifications to the Entity List. The ERC makes all decisions to add an entry to the Entity List by majority vote and all decisions to remove or modify an entry by unanimous

vote.

## **ERC Entity List Decisions**

### *Additions to the Entity List*

This rule implements the decision of the ERC to add two persons to the Entity List on the basis of § 744.11 (License requirements that apply to entities acting contrary to the national security or foreign policy interests of the United States) of the EAR. The two entries added to the Entity List consist of two entries in Pakistan.

The ERC reviewed § 744.11(b) (Criteria for revising the Entity List) in making the determination to add these two persons to the Entity List. Under that paragraph, persons for whom there is reasonable cause to believe, based on specific and articulable facts, that they have been involved, are involved, or pose a significant risk of being or becoming involved in, activities that are contrary to the national security or foreign policy interests of the United States and those acting on behalf of such persons may be added to the Entity List pursuant to § 744.11. Paragraphs (b)(1)-(b)(5) of § 744.11 include an illustrative list of activities that could be contrary to the national security or foreign policy interests of the United States.

The two persons being added under Pakistan, Mohammad Azam and Azam Electronics, are believed to have been involved in activities described under paragraphs (b)(1) and (b)(2) of § 744.11. Mohammad Azam owns and directs Azam Electronics in Chaman, Pakistan. There are entities operating in Chaman, Pakistan, that support violent extremist organizations that use Improvised Explosive Devices (IEDs) in Pakistan and

Afghanistan to further their terrorist-related objectives. Electronic components sourced from Azam Electronics are used as triggering devices in IEDs that are being used in Afghanistan and Pakistan.

For the two persons added to the Entity List and the one modified entry described below, the ERC specified a license requirement for all items subject to the EAR, and established a license application review policy of a presumption of denial. The license requirement applies to any transaction in which items are to be exported, reexported, or transferred (in-country) to such persons or in which such persons act as purchaser, intermediate consignee, ultimate consignee, or end-user. In addition, no license exceptions are available for exports, reexports, or transfers (in-country) to those persons being added to the Entity List.

This final rule adds the following two persons to the Entity List:

## **Pakistan**

(1) Azam Electronics, a.k.a., the following two aliases:

-Mohammad Azam Electronics, and

-Akram Dish TV Satellite Center,

Chaman, Killa, Abdullah District, Baluchistan Province, Pakistan; and

(2) Mohammad Azam, a.k.a,

-Mohammad Akram,

Chaman, Killa, Abdullah District, Baluchistan Province, Pakistan.

### *Modification to the Entity List*

On the basis of a decision made by the ERC, in addition to the two Pakistani additions described above, this rule amends one entry currently on the Entity List under the U.A.E. The amendments provide one additional alias and one alternate address for this listed person, as follows:

#### **United Arab Emirates**

(1) Infotec, a.k.a., the following two aliases:

-Info Tech, and

-I. Tec Trading FZE,

P.O Box 10559, Ras Al Khaimah, U.A.E.; and

Ras Al Khaimah Free Trade Zone (RAKFTZ), U.A.E.

### *Revision of authority citation for part 744*

On November 14, 1994, by Executive Order 12938, the President declared a national emergency with respect to the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States posed by the proliferation of nuclear, biological, and chemical weapons (weapons of mass destruction) and the means of delivering such weapons. The authority for authority for parts 730, 734, 736, 742, 744 and 745 of the Export Administration Regulations (15 CFR parts 730 – 774) rests in part on that executive order and the annual notices continuing the international emergency declared therein. This rule revises the authority citations paragraph to part 744 of the EAR (15 CFR part 730) to include citations to the President’s Notice of November 1, 2012 – Continuation of the National Emergency With Respect to Weapons of Mass

Destruction (77 FR 66513, November 5, 2012), which is the most recent such annual notice.

### *Savings Clause*

Shipments of items removed from eligibility for a License Exception or export or reexport without a license (NLR) as a result of this regulatory action that were en route aboard a carrier to a port of export or reexport, on [INSERT DATE OF PUBLICATION], pursuant to actual orders for export or reexport to a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export or reexport without a license (NLR).

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as extended by the Notice of August 15, 2012, 77 FR 49699 (August 16, 2012), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222.

### **Rulemaking Requirements**

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental,

public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by the OMB under control numbers 0694–0088, “Multi-Purpose Application,” which carries a burden hour estimate of 43.8 minutes for a manual or electronic submission. Total burden hours associated with the PRA and OMB control number 0694–0088 are not expected to increase as a result of this rule. You may send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet K. Seehra, Office of Management and Budget (OMB), by e-mail to [Jasmeet\\_K.\\_Seehra@omb.eop.gov](mailto:Jasmeet_K._Seehra@omb.eop.gov), or by fax to (202) 395-7285.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.



4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment and a delay in effective date are inapplicable because this regulation involves a military or foreign affairs function of the United States. (*See* 5 U.S.C. 553(a)(1)). BIS implements this rule to protect U.S. national security or foreign policy interests by preventing items from being exported, reexported, or transferred (in country) to the persons being added to the Entity List. If this rule were delayed to allow for notice and comment and a delay in effective date, then entities being added to the Entity List by this action would continue to be able to receive items without a license and to conduct activities contrary to the national security or foreign policy interests of the United States. In addition, because these parties may receive notice of the U.S. Government's intention to place these entities on the Entity List once a final rule was published, it would create an incentive for these persons to either accelerate receiving items subject to the EAR to conduct activities that are contrary to the national security or foreign policy interests of the United States, and/or to take steps to set up additional aliases, change addresses, and other measures to try to limit the impact of the listing on the Entity List once a final rule was published. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

## **List of Subject in 15 CFR Part 744**

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

### **PART 744—[AMENDED]**

1. The authority citation for 15 CFR part 744 is revised to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of January 19, 2012, 77 FR 3067 (January 20, 2012) Notice of August 15, 2012, 77 FR 49699 (August 16, 2012); Notice of September 11, 2012, 77 FR 56519 (September, 12, 2012); Notice of November 1, 2012, 77 FR 66513 (November 5, 2012).

2. Supplement No. 4 to part 744 is amended:

a. By adding under Pakistan, in alphabetical order, two Pakistani entities; and

b. By revising under the United Arab Emirates, the Emirati entity, Infotec, a.k.a., Info Tech, Ras Al Khaimah Free Trade Zone (RAKFTZ), U.A.E.

The additions and revisions read as follows:

**Supplement No. 4 to Part 744 - Entity List**

Country	Entity	License requirement	License review policy	Federal Register citation
*****				
PAKISTAN	*****			
	Azam Electronics, a.k.a., the following two aliases: -Mohammad Azam Electronics, <u>and</u> -Akram Dish TV Satellite Center,  Chaman, Killa, Abdullah District, Baluchistan Province, Pakistan.	For all items subject to the EAR. (See §744.11 of the EAR).	Presumption of denial.	77 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].
	*****			
	Mohammad Azam, a.k.a., -Mohammad Akram,  Chaman, Killa, Abdullah District, Baluchistan Province, Pakistan.	For all items subject to the EAR. (See §744.11 of the EAR).	Presumption of denial.	77 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].
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UNITED ARAB EMIRATES	*****			

	Infotec, a.k.a., the following two aliases: -Info Tech, <u>and</u> -I. Tec Trading FZE,  P.O. Box 10559, Ras Al Khaimah, U.A.E.; <u>and</u> Ras Al Khaimah Free Trade Zone (RAKFTZ), U.A.E.	For all items subject to the EAR. (See §744.11 of the EAR).	Presumption of denial.	76 FR 78146, 12/16/11. 77 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].
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Dated: November 26, 2012

Kevin J. Wolf

Assistant Secretary for Export Administration

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